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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/079,334  | 02/20/2002  | Parthapratin De      | I-2-188.2US         | 1399             |
| 24374   | 7590        | 11/27/2006           | EXAMINER            |                  |
| VOLPE AND KOENIG, P.C.<br>DEPT. ICC<br>UNITED PLAZA, SUITE 1600<br>30 SOUTH 17TH STREET<br>PHILADELPHIA, PA 19103 |             |                      | WARE, CICELY Q      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2611                |                  |

DATE MAILED: 11/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

sf

|                              |                        |  |                     |  |
|------------------------------|------------------------|--|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> |  | <b>Applicant(s)</b> |  |
|                              | 10/079,334             |  | DE ET AL.           |  |
|                              | <b>Examiner</b>        |  | <b>Art Unit</b>     |  |
|                              | Cicely Ware            |  | 2611                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Double Patenting*

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-12 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-12 of prior U.S. Patent No. 6,608,859. This is a double patenting rejection.

Examiner asserts that in the Patent applicant's preamble recites "A code division multiple access base station, the base station receives K data signals". In the present application applicant's preamble recites "A code division multiple access user equipment, the user equipment receives K data signals". It is inherent that user equipment can be considered a base station and vice versa. This is the only difference between the present application and the patent.

(1) With regard to claim 1, claim 1 of the patent encompasses all the limitations of claim 1 of the present application.

(2) With regard to claim 2, claim 2 of the patent encompasses all the limitations of claim 2 of the present application.

(3) With regard to claim 3, claim 3 of the patent encompasses all the limitations of claim 3 of the present application.

(4) With regard to claim 4, claim 4 of the patent encompasses all the limitations of claim 4 of the present application.

(5) With regard to claim 5, claim 5 of the patent encompasses all the limitations of claim 5 of the present application.

(6) With regard to claim 6, claim 6 of the patent encompasses all the limitations of claim 6 of the present application.

(7) With regard to claim 7, claim 7 of the patent encompasses all the limitations of claim 7 of the present application.

(8) With regard to claim 8, claim 8 of the patent encompasses all the limitations of claim 8 of the present application.

(9) With regard to claim 9, claim 9 of the patent encompasses all the limitations of claim 9 of the present application.

(10) With regard to claim 10, claim 10 of the patent encompasses all the limitations of claim 10 of the present application.

(11) With regard to claim 11, claim 11 of the patent encompasses all the limitations of claim 11 of the present application.

(12) With regard to claim 12, claim 12 of the patent encompasses all the limitations of claim 12 of the present application.

Art Unit: 2611

**Conclusion**

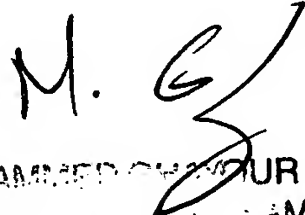
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cicely Ware whose telephone number is 571-272-3047. The examiner can normally be reached on Monday – Friday, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammed Ghayour can be reached on 571-272-3021. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

*Cicely Ware*

cqw  
November 21, 2006

  
MOHAMMED GHAYOUR  
SUPERVISOR/TALENT EXAMINER

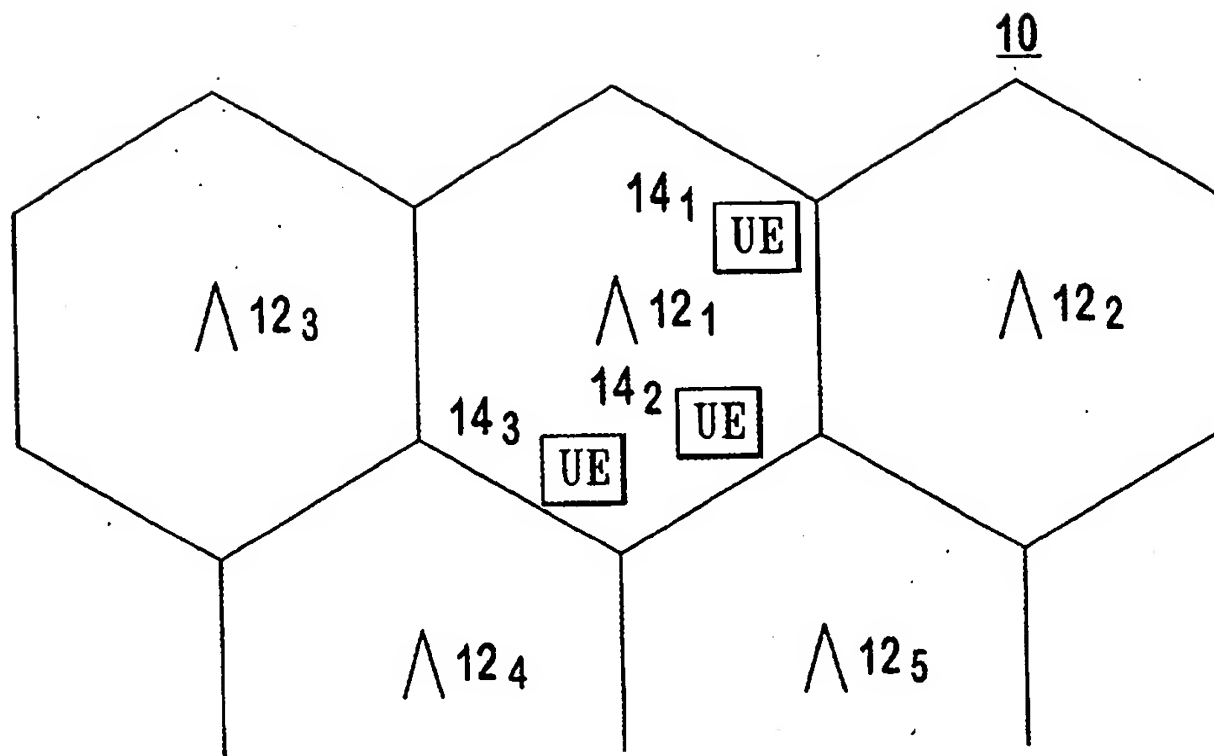


FIG. 1

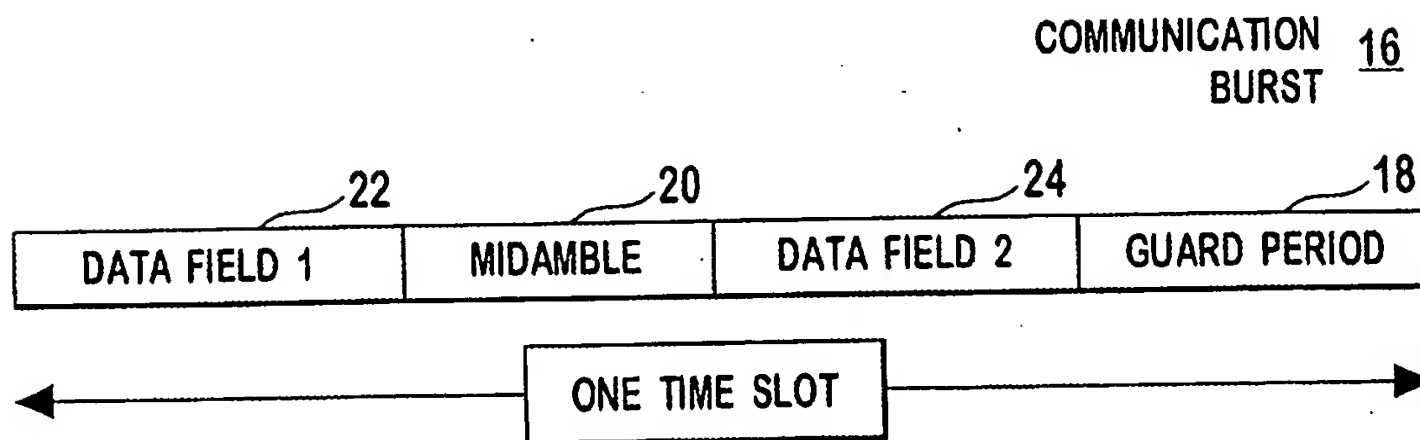


FIG. 3

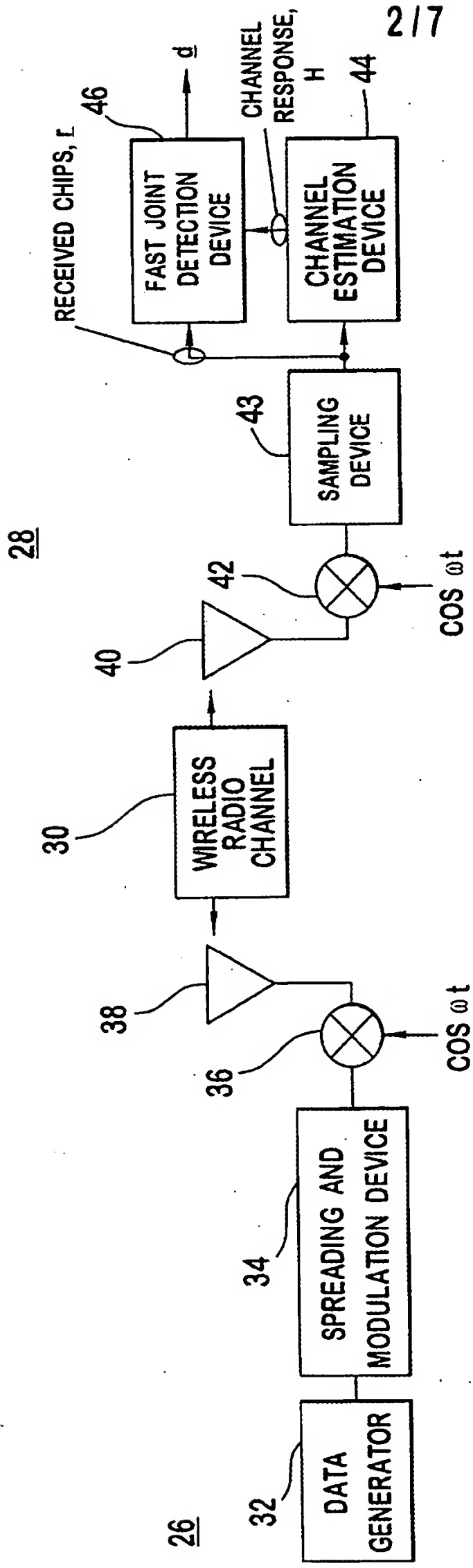
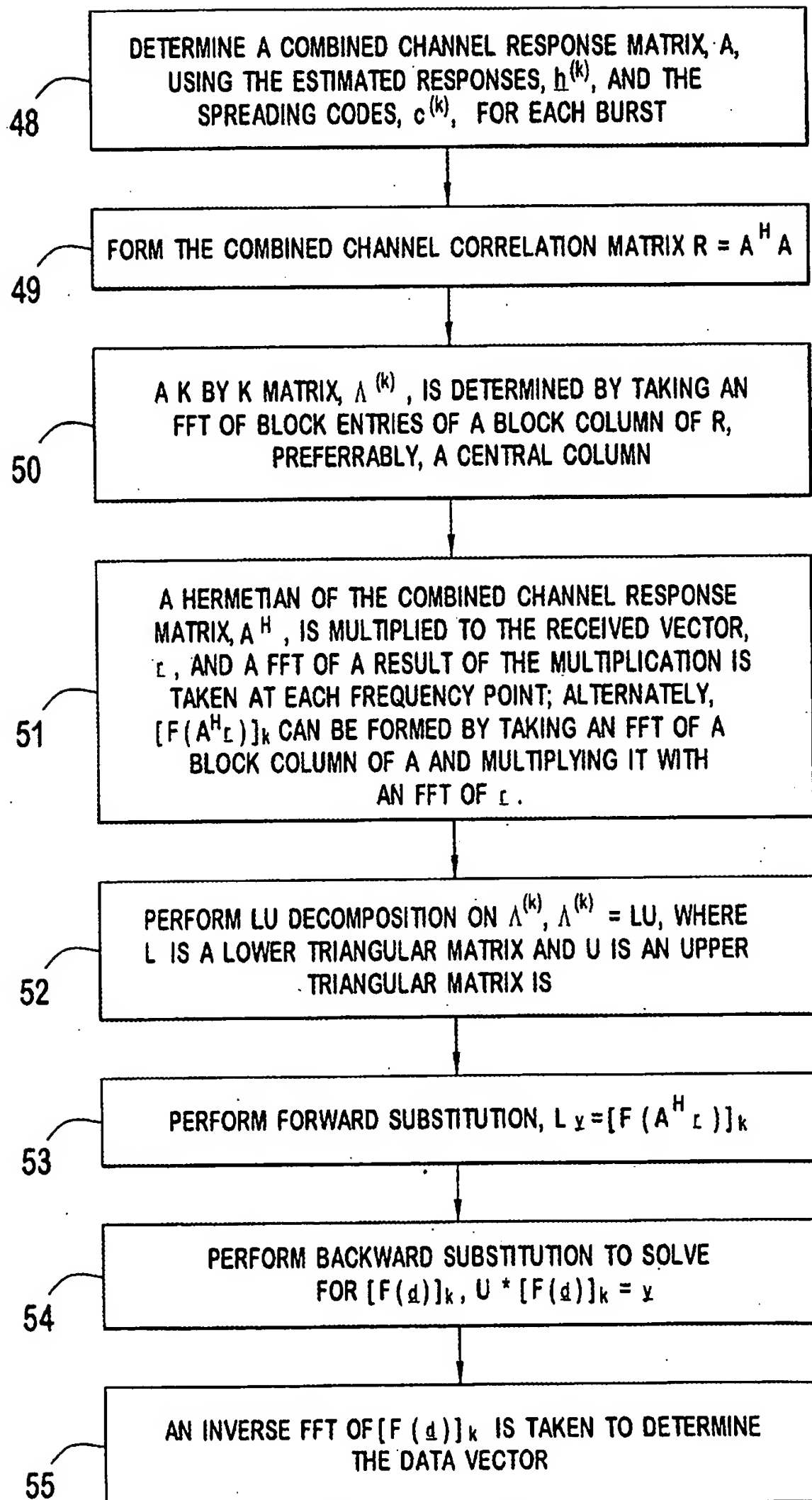


FIG. 2





# COMMUNICATION 16 BURST

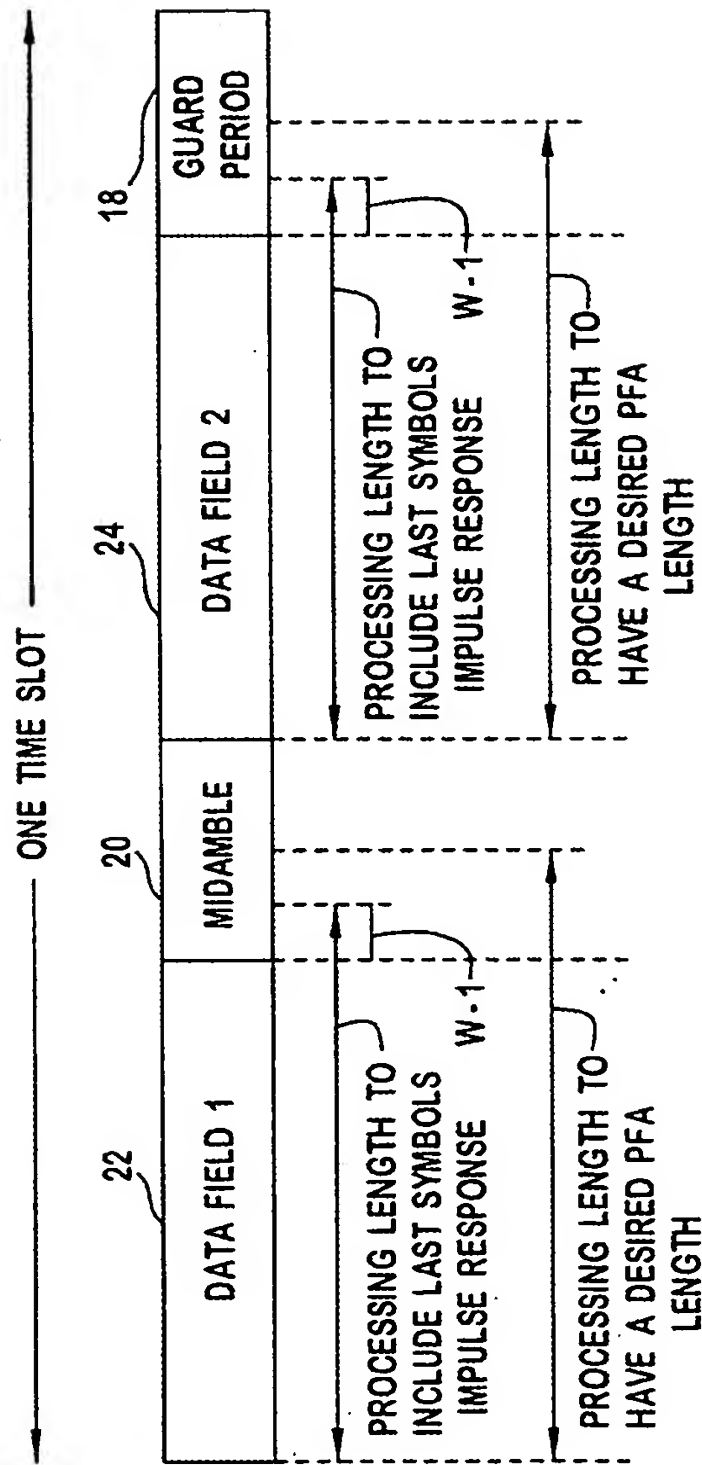


FIG. 5

FIG. 6

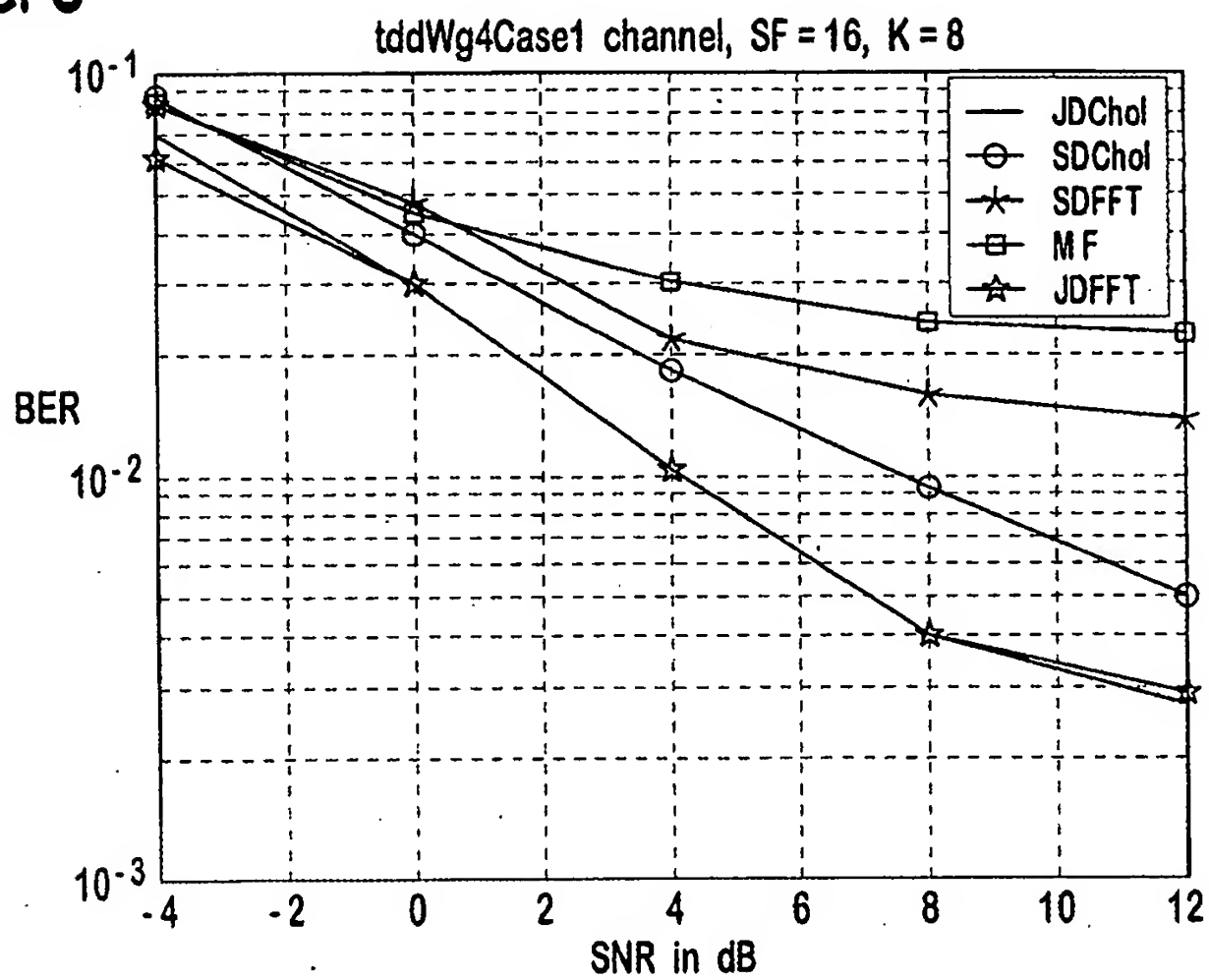


FIG. 7

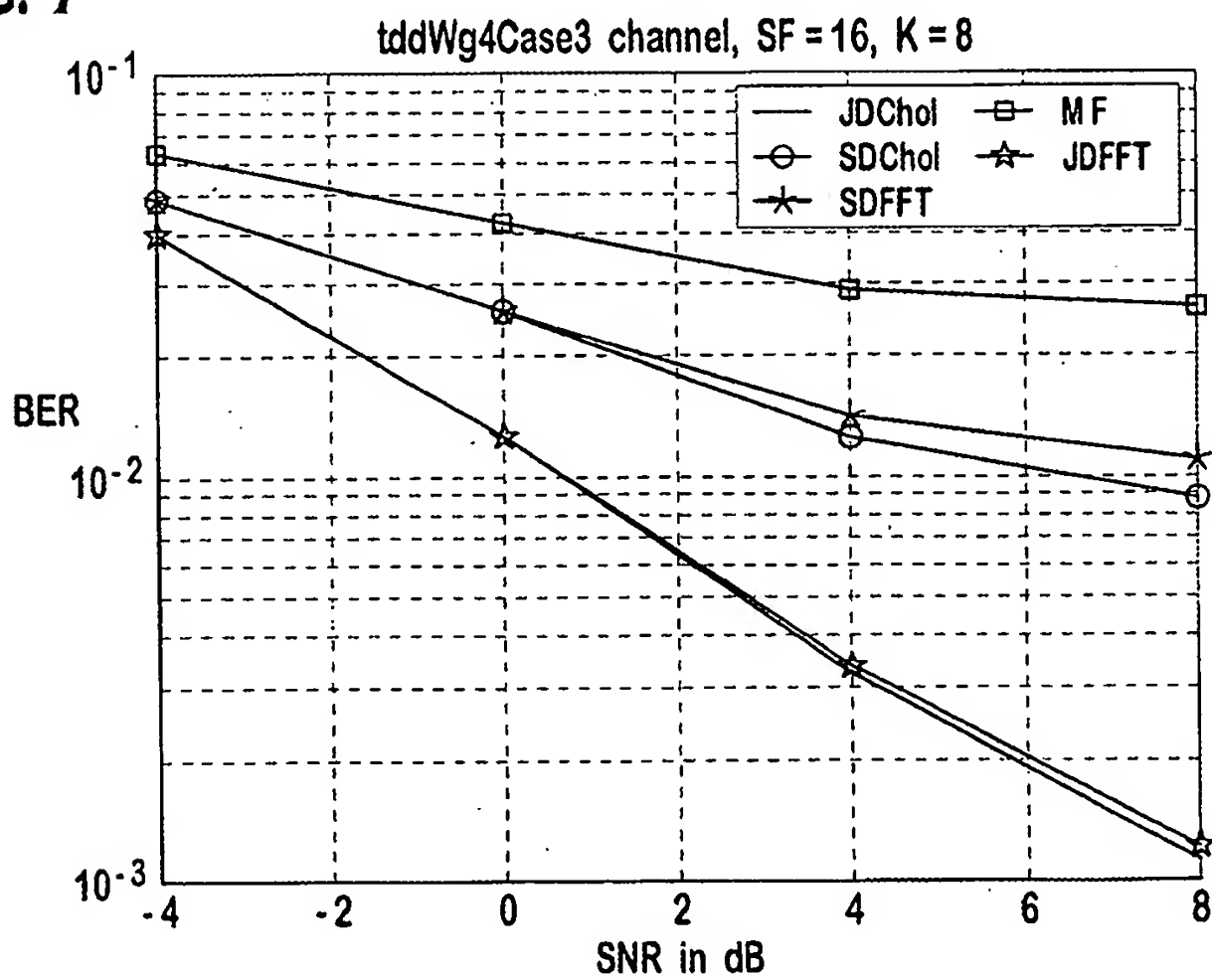


FIG. 8

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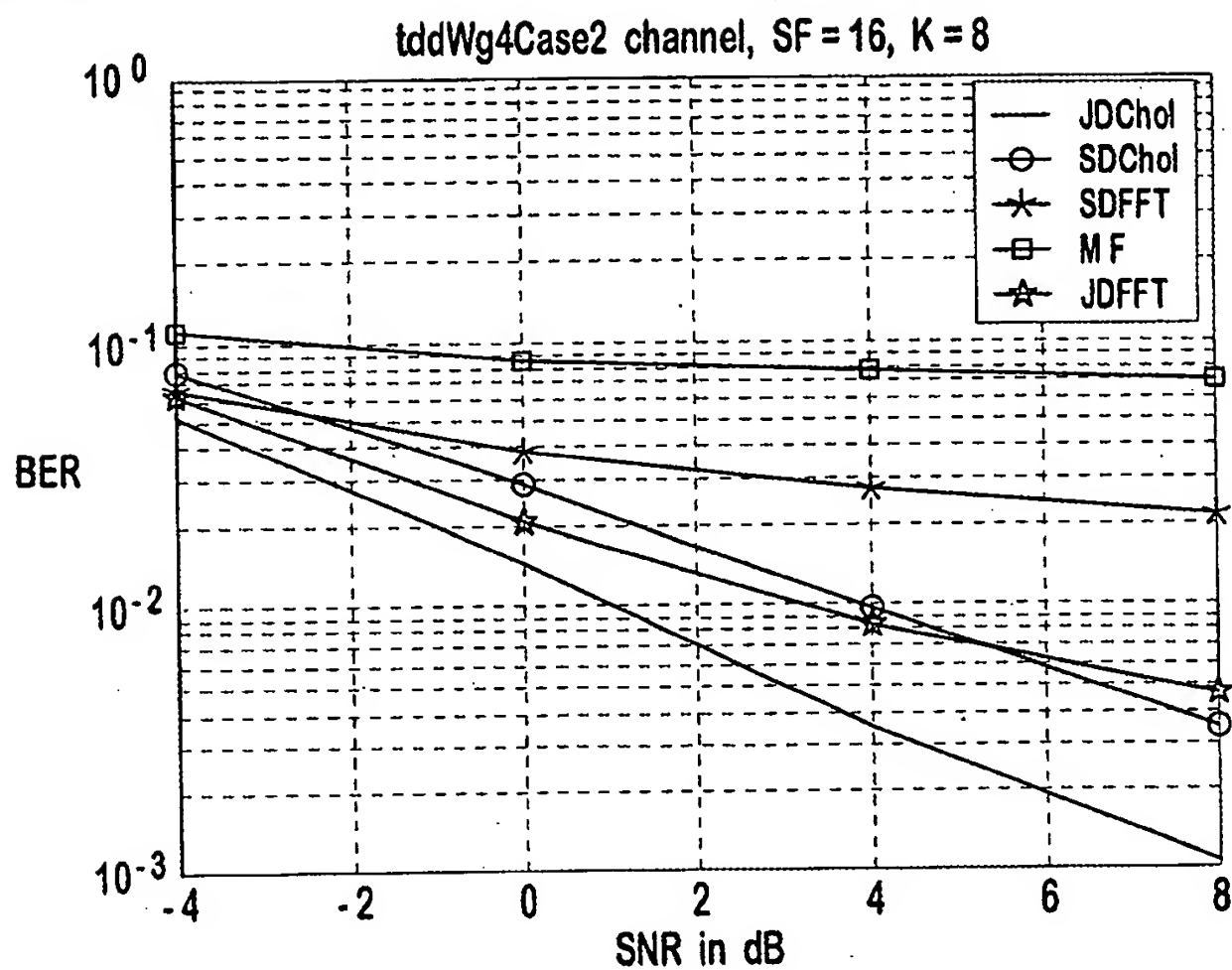


FIG. 9

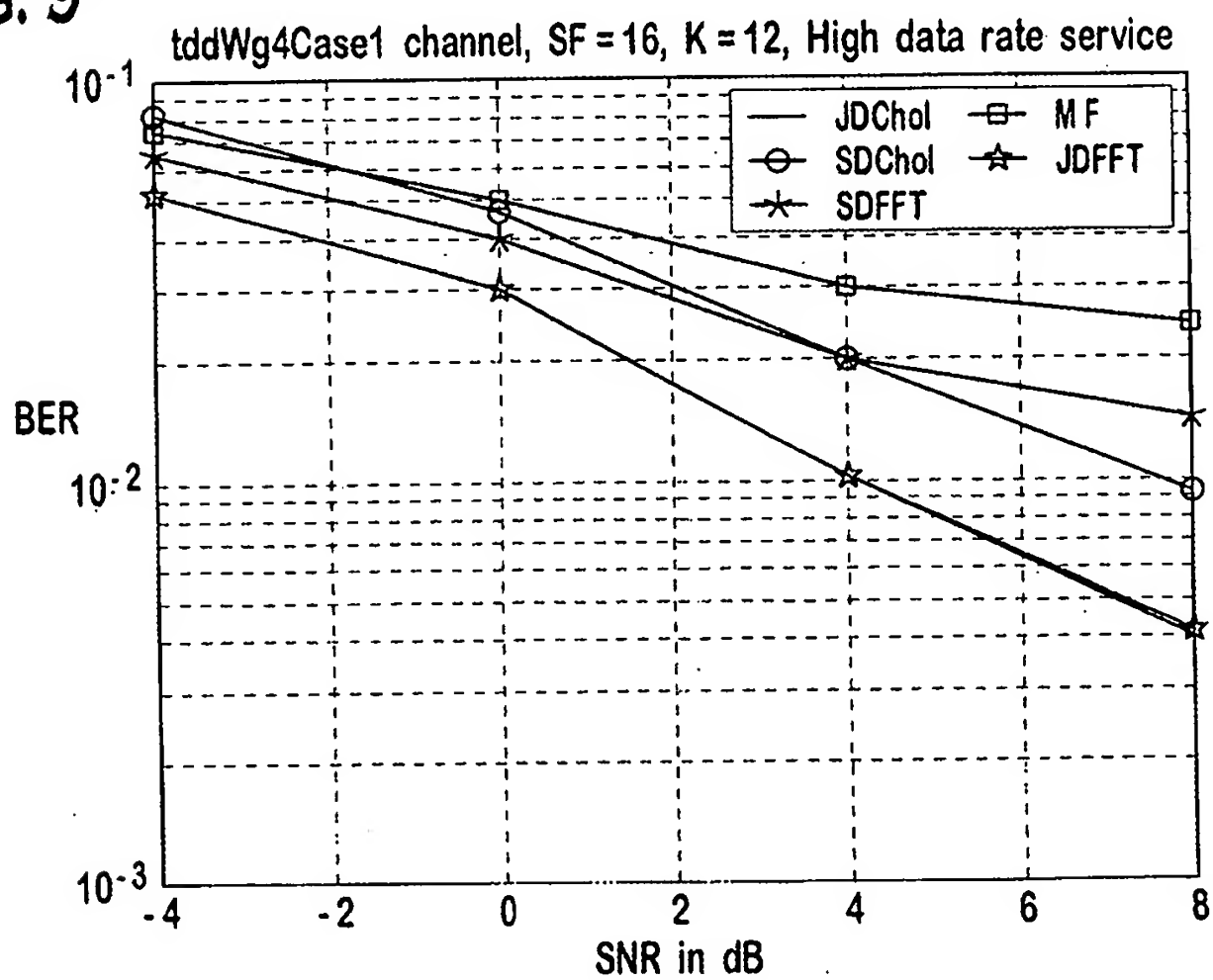


FIG. 10

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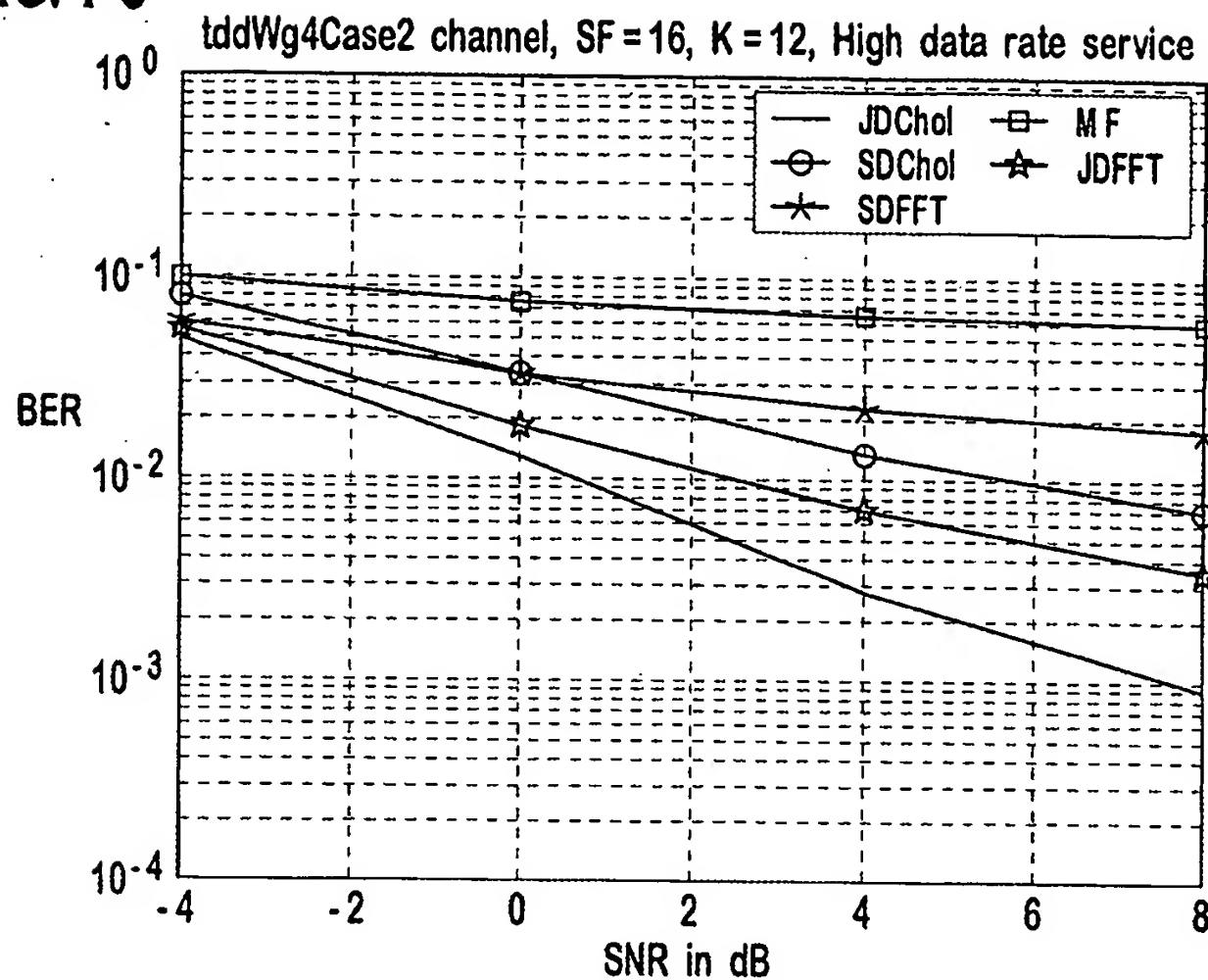


FIG. 11

